

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

DEBRA SPERO, as Natural Mother of
V.S., an infant,

Plaintiff,

-against-

DECLARATION OF WILLA PAYNE
Civil Action No.: 3:17-CV-7 (GTS-DEP)

**VESTAL CENTRAL SCHOOL DISTRICT
BOARD OF EDUCATION, VESTAL CENTRAL SCHOOL
DISTRICT, JEFFREY AHEARN**, Superintendent of Schools,
ALBERT A. PENNA, Interim Principal Vestal
High School, **DEBORAH CADDICK and CLIFFORD
KASSON**, in their Individual and Official capacities.

Defendants.

WILLA PAYNE, pursuant to 28 U.S.C. 1746, declares the following under penalty of perjury:

1. I am an attorney at Legal Services of Central New York, Inc. (LSCNY), counsel for Plaintiffs Debra Spero and her minor child V.S. in this matter. As such, I am fully familiar with the facts and circumstances of this proceeding.
2. I make this declaration in support of Plaintiffs' motion for a temporary restraining order and preliminary injunction. Attached to this declaration are documents referenced in plaintiffs' memorandum of law in support of their motion. Any redactions to the attached documents were made to protect the privacy of minors pursuant to Local Rule 8.1.
3. Attached hereto as Exhibit A is a true and correct copy of the declaration of Plaintiff V.S., in support of the motion for preliminary injunction sworn to on May 3, 2017.
4. Attached hereto as Exhibit B is a true and correct copy of V.S.'s Student Disciplinary Record, Incident Id No 27008.

5. Attached hereto as Exhibit C is a true and correct copy of Questions posed by Defendants and Answers given by students at Vestal High School during their investigation into V.S. and notes taken by Defendant Caddick during those interviews.
6. Attached hereto as Exhibit D is a true and correct copy of a December 2, 2016 suspension letter from Defendant Penna.
7. Attached hereto as Exhibit E is a true and correct copy of the declaration of Plaintiff's mother, Debra Spero sworn to on May 3, 2017.
8. Attached hereto as Exhibit F is a true and correct copy of pages 61-62 of testimony taken in the Superintendent's hearing on January 25, 2017.
9. Attached hereto as Exhibit G is a true and correct copy of a December 5, 2016 letter from Defendant Caddick suspending V.S. from senior activities.
10. Attached hereto as Exhibit H is a true and correct copy of the Snapchat video posted by V.S.
11. Attached hereto as Exhibit I is a true and correct copy of notes, upon information and belief that were taken on December 8, 2017 by Defendant Caddick of a conversation between Defendant Penna and Mr. Spero and Brittany Spero.
12. Attached hereto as Exhibit J is a true and correct copy of Vestal Police Department Incident Report of 12/8/2016 and printed on 12/14/2016 written by SRO Conor Talbut.
13. Attached hereto as Exhibit K is a true and correct copy of an email from SRO Talbut to the Defendants dated 12/8/2016.
14. Attached hereto as Exhibit L is a true and correct copy of the Superintendent hearing transcript dated 1/25/2017 pg 53, testimony of SRO Officer C. Talbut.

15. Attached hereto as Exhibit M is a true and correct copy of the Superintendent hearing transcript dated 1/25/2017 pg 54, testimony of SRO Officer C. Talbut.
16. Attached hereto as Exhibit N is a true and correct copy of notes, upon information and belief taken by Defendant Caddick of a meeting between Defendants on 12/8/2016.
17. Attached hereto as Exhibit O is a true and correct copy of the 12/9/16 suspension letter from Defendant Penna.
18. Attached hereto as Exhibit P is a true and correct copy of notes taken by Defendant Penna on 12/9/2016 after he had suspended V.S. further.
19. Attached hereto as Exhibit Q is a true and correct copy of notes, upon information and belief taken by Defendant Caddick of a conversation between Defendant Penna and Mr. Spero on 12/12/16.
20. Attached hereto as Exhibit R is a true and correct copy of the Notice of Superintendent's Hearing dated 12/14/2016.
21. Attached hereto as Exhibit S is a true and correct copy of the Contract allowing Plaintiff to attend school while the Superintendent's hearing was pending between Plaintiff V.S. and Defendant Ahearn dated January 4, 2017.
22. Attached hereto as Exhibit T is a true and correct copy of the Hearing Officer's Recommendations dated February 3, 2017.
23. Attached hereto as Exhibit U is a true and correct copy of the Superintendent's Decision dated February 4, 2017.
24. Attached hereto as Exhibit V is a true and correct copy of the letter from the Vestal Board of Education upholding the Superintendent's suspension dated March 14, 2017.

25. Attached hereto as Exhibit W is a true and correct copy of the Letter from Commissioner dated April 21, 2017 denying Plaintiff's request for a Stay Order.
26. Attached hereto as Exhibit X is a true and correct copy of Instagram Photos (9) of Vestal Students entered into evidence at the Superintendent's hearing.
27. Attached hereto as Exhibit Y is a true and correct copy of notes, upon information and belief taken by Defendant Caddick dated 12/12/2017.
28. Attached hereto as Exhibit Z is a true and correct copy of a portion of Defendant Caddick's testimony during the 1/25/2017 Superintendent's hearing p. 24.
29. Pursuant to Local Rule 7.1(e) there is good and sufficient cause for this motion to be brought by Order to Show Cause because as set forth in detail in plaintiff's memorandum of law every day V.S. is denied educational instruction is another day he will suffer an incalculable irreparable harm. But, if he is immediately returned it is likely that between the remaining two months of school and the summer term he can earn his high school diploma. Plaintiff's counsel has attempted to have the suspension stayed by the New York State Department of Education. That stay application was unsuccessful making bringing this motion necessary. Defendants have refused to expunge the excessive and unconstitutional punishment imposed on V.S. I have informed Defendants' counsel we will be moving for a temporary restraining order and preliminary injunction by Order to Show Cause by e-mail on May 5, 2017 at 4:33 p.m.

Respectfully Submitted:

____ S/Willa S. Payne _____
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